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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,129	07/24/2003	Achim Gleissner	GK-EIS-1068 / 500593.2006	9358
7590	12/27/2007		EXAMINER [REDACTED]	FAULK, DEVONA E
Gerald H. Kiel, Esq. REED SMITH LLP 599 Lexington Avenue New York, NY 10022-7650			ART UNIT [REDACTED]	PAPER NUMBER 2615
			MAIL DATE 12/27/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/626,129	GLEISSNER, ACHIM
	<b>Examiner</b>	<b>Art Unit</b>
	Devona E. Faulk	2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 22 October 2007.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-6 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-6 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 22 October 2007 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/22/2007 has been entered.

#### ***Response to Remarks***

2. Applicant's arguments, filed 11/21/2007, with respect to the rejection(s) of claim(s) 1-4 under 103 (a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Burris, Matsumura and Tsai.

3. Claims 7-10 are cancelled.

#### ***Drawings***

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the lapel clip must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure

is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "3" and "5" have both been used to designate the same element in the drawings filed on 10/22/2007. The amendment to the specification filed on 11/21/2007 identifies 3 as the bush. Reference character 5 has always identified the housing. The specification teaches that housing 5 is inserted into bush 3. This needs to be reflected in the drawings. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be

notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

6. The drawings are objected to because of line quality of the drawings and the labels identifying the drawings. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

7. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction

of the following is required: Claim 5 and 6 recite "... housing a lapel clip on its outer side..". The specification does not provide antecedent basis for this claimed subject matter. This language was in the original specification via the original claims so the applicant can either amend the claims or amend the specification so that this language is included.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. **Claim 1** is rejected under 35 U.S.C. 103(a) as being unpatentable over James (US 6,671,494) in view of Burris et al. (US 5,708,724).

Regarding claim 1, James discloses wireless headphones comprising:

a receive section for receiving sound signal data transmitted in wireless manner, wherein during operation the receive section is attached to the headphone such that the receive section is carried on the headphone (**22 receiver; Figure 1; column 5, lines 30-49; receiver receives sound data transmitted wirelessly from transmitter 14 and the receiver is attached to the headphone**).

James fails to disclose that the receiver is detachable.

Burris discloses a communications headset including a detachable receiver ( **18, Figure 1; column 2, lines 30-31 teaches that the receiver is detachable; column 3,**

**lines 44-55 teaches that the all of the electronics are contained in the receiver capsule).**

It would have been obvious to modify James by making the receiver detachable so that the receiver could be used interchangeably with a variety of headset bodies (Burris; column 2, lines 32-35).

10. **Claims 2-4** are rejected under 35 U.S.C. 103(a) as being unpatentable over James (US 6,671,494) in view of Burris et al. (US 5,708,724) in further view of Matsumura et al. (US 5,652,766).

Regarding claim 2, James as modified by Burris discloses a receive section. James as modified fails to disclose that the receive section is configured to house a plug of a headphone.

Matsumura discloses a receiver section (**receiver 3 receives wireless transmitted audio, Figure 1b and Figure 5; column 4, lines 37-41**) that comprises a jack (23) for receiving a plug to an earphone (**Figure 2 illustrates the receiver, jack and the headphone plug; column 4, lines 34-45**).

It would have been obvious to modify James as modified so that the receiver can receive a plug for a headphone so that the wireless transmitted audio can be output through earphones (headphones) that do not have wireless capability.

Regarding claim 3, James as modified discloses a detachable receiver that can be used with a plurality of headset bodies (**See Burris as applied to claim 1 above**) and of a receiver that has a plug for receiving an earphone (**See Matsumura as**

**applied to claim 2 above).** The examiner takes official notice that it is known to have a jack that is capable of receiving a variety of commercially available headphones. It would have been obvious to modify James as modified to have the jack be accommodating to other commercially available headphones so that the receiver can be used with various headphones providing variety to the user.

Regarding claim 4, James as modified discloses a battery (James teaches the battery in the transmitter; Matsumura teaches of the power source in the CD player). The prior art fails to explicitly teach of a battery housed in the same housing as the electronics. The examiner takes official notice that a battery included in an electronics housing is known in the art . It would have been obvious to modify James as modified to have the battery accommodated together with the electronics in the same housing in order to have a self-powered receiver that can function independently.

11. **Claims 5-6** are rejected under 35 U.S.C. 103(a) as being unpatentable over James (US 6,671,494) in view of Burris et al. (US 5,708,724) in further view of Matsumura et al. (US 5,652,766) in further view of Tsai (US 2003/0027606).

Regarding claim 5, James as modified fails to disclose wherein the electronics housing has a lapel clip on its outer side. Tsai discloses a wireless earphone including a positioning unit (**15 which reads on lapel clip**) for clamping the receive unit housing (**10**) to some piece of clothing (**page 1, paragraph 0019**). It would have been obvious to modify James as modified to include a clip that would enable the electronics housing to be clip or clamped to a user 's clothes in order to reduce any burden to the ear of the

human body ( Tsai page 1, paragraph 0008) therefore making the user more comfortable .

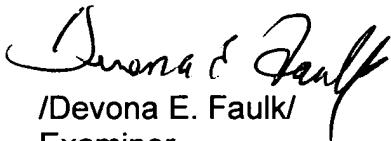
Regarding claim 6, James as modified discloses herein an amplifier is accommodated in the housing with the receive electronics, and wherein said headphones further comprise a means for adjusting the reproduction and volume on the outside of the housing (**Matsumura 's receiver, 3, includes an amplifier 67 and means for adjusting the volume , volume adjusting key 24; column 4, lines 34-36; see Figure 1b and Figure 5**). All elements of claim 6 are comprehended by the rejection of claim 5.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Devona E. Faulk whose telephone number is 571-272-7515. The examiner can normally be reached on 8 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



/Devona E. Faulk/  
Examiner  
Art Unit 2615  
12/22/2007